

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**WALKAWAY CANADA INC., ET AL.**

**PLAINTIFFS,**

**v.**

**CIVIL ACTION NO. 3:10-CV-02657-L**

**YOU WALK AWAY, LLC,**

**DEFENDANT.**

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**DECLARATION OF MARC N. BLUMENTHAL IN SUPPORT OF DEFENDANT'S  
MOTION FOR COSTS AND ATTORNEYS' FEES AND TO STAY PROCEEDINGS**

I, Marc Blumenthal, declare as follows:

1. I am an attorney at law, duly licensed to practice law in the state of Illinois, and was the attorney of record for Defendant You Walk Away, LLC in Case No. 1:10-cv-01709 in the United States District Court for the Northern District of Illinois, Eastern Division (the "Illinois Action"). I have personal knowledge of the facts stated herein and if called to testify could testify competently thereto.

2. I am the sole attorney at Law Office of Marc N. Blumenthal with a principal place of business at 19 S. La Salle Street, Suite 1500, Chicago, Illinois 60603.

3. I received my Juris Doctor degree from Tulane University and was admitted to the Louisiana State Bar in 1981 and the Illinois State Bar in 1986. I have been in private practice since 1985. I am not, and have never been, admitted to practice in the state of Texas nor in the Northern District of Texas.

4. Law Office of Marc N. Blumenthal represents clients in a number of specific practice areas, with a strong concentration in trademark and franchise law.

5. At the time I provided the services in connection with the Illinois Action as described herein, my 2010 hourly rate was \$325 per hour.

6. Based on my more than 25 years of experience practicing in Chicago, Illinois, as well as my knowledge of the hourly rates charged by other lawyers of similar experience in similar matters in Chicago, Illinois, and the nature and complexity of the work I performed in the Illinois Action, my rates are reasonable and consistent with comparable legal services in the Chicago, Illinois area.

7. In May 2010, I spent 8.0 hours working on this case. All time was spent on reviewing the Complaint and researching trademark issues; reviewing Motion for Default Judgment; appearing in court and filing Certificate of Lanham Act Materials; researching and drafting the Motion to Transfer; and various email exchanges, personal consultations and telephone consultations.

8. In June 2010, I spent 18.85 hours working on this case. All time was spent on researching, drafting, preparing and filing combined Motions to Transfer and Dismiss and Affidavit for Jon Maddux; receipt of the discovery schedule, discovery; reviewing Walkaway Canada's Response to Motion to Dismiss; and various email exchanges.

9. In July 2010, I spent 26.2 hours working on this case. All but 7.8 hours of that time was spent reviewing Walkaway Canada's Response to combined Motions to Transfer or Dismiss; researching, drafting, preparing and filing Reply to Response to combined Motions to Transfer or Dismiss and Affidavit of Jon Maddux; drafting, preparing and serving Rule 26 Initial Disclosures; and various email exchanges and personal consultations. The remainder of the time was spent on preparing outgoing discovery and discovery responses.

10. In August 2010, I spent 3.45 hours working on this case. All but 1.8 hours of that time was spent on various email exchanges, personal consultations and reviewing documents. The remainder of the time was spent on preparing outgoing discovery and discovery responses.

11. In September 2010, I spent 1.6 hours working on this case. All time was spent on reviewing Walkaway Canada's discovery responses and various email exchanges.

12. In October 2010, I spent 1.3 hours working on this case. All but 1.0 hours was spent on a letter, email exchanges and telephone consultations with Jonathan Froemel. The remainder of the time was spent on preparing supplemental discovery responses.

13. In November 2010, I spent 2.35 hours working on this case. All but 1.45 hours was spent on reviewing Motion to Extend Time for Discovery and Order for close of discovery; and various email exchanges and telephone consultations. The remainder of the time was spent on preparing outgoing discovery and discovery responses.

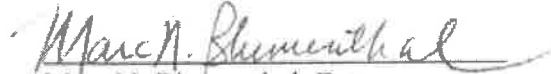
14. In December 2010, I spent 9.85 hours working on this case. All time was spent on reviewing Walkaway Canada's discovery responses, documents which would have been subject to a protective order, and were treated confidentially (however the parties had not come to an agreement before the case was voluntarily dismissed); and various email exchanges and telephone consultations.

15. In total, I spent no fewer than 71.6 hours working on this case. Of those hours, 59.55 hours were spent on work exclusive of preparing outgoing discovery and discovery responses. At my hourly rate, my total fees, exclusive of time spent preparing outgoing discovery and discovery responses are \$19,353.75.

16. My time records for time spent on Case No. 1:10-cv-01709 were recorded contemporaneously with the work performed.

17. Attached hereto as Exhibit I is a true and correct copy of Statements for Legal Services for the Law Office of Marc N. Blumenthal for time spent on Case No. 1:10-cv-01709 from May 2010 through December 2010.

Under 28 USC 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on FEBRUARY 17, 2011 at CHICAGO, ILLINOIS.

  
Marc N. Blumenthal, Esq.

# **EXHIBIT 1**

**LAW OFFICE OF MARC N. BLUMENTHAL**

19 S. LA SALLE STREET  
 SUITE 1500  
 CHICAGO, ILLINOIS 60603

TELEPHONE (312) 641-0616  
 FAX (312) 332-4629  
 Website: BLUMENTHALFRANCHISELAW.com

Email: marcblawyer@sbcglobal.net

January 24, 2011

Via Email Only

Mr. Jonathan Maddux  
 CEO  
 You Walk Away, LLC  
 701 Palomar Airport Road  
 Suite 300  
 Carlsbad, CA 92011

**STATEMENT FOR LEGAL SERVICES**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>December, 2010</b>	
12-3	Discovery document review	.45
12-5	Discovery document review	1.0
	Protective order document review	1.0
12-6	Reviewed all discovery documents	5.60
	Email to Jon and Chad	.15
12-7	Email to Jon and Chad	.10
12-8	TCs with Lucy S re: Protective Order	.35
12-9	Email to opposing counsel	.20
12-15	TC with Jon Froemel	.10
	EMX with Chad	.70
12-23	Email to Chad and Jon	.10
12-28	EMX with Nick and email	.10
	9.85 hours @ \$ 325 per hour \$3,201.25	
	Expenses -0-	
	Retainer Balance Applied to New Balance \$1,021.25	
	Payable on receipt \$2,180	

- Personal Consultation (PC)
- Telephone Consultation (TC)
- Conference Call (CC)
- Office Conference (OC)
- Email Exchange (EMX)
- Meeting (Mtg.)

**LAW OFFICE OF MARC N. BLUMENTHAL**

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November 30, 2010

Via Email Only

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92011

**STATEMENT FOR LEGAL SERVICES**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>November 2010</b>	
11-4	EMXs with Jon and Chad	.25
	Document for written document discovery drafted and emailed	1.45
	Reviewed Nick's comments and documents on disk	.20
11-11	TC with Lucy Shelby (WCI attorney)	.10
	Email to Jon and Chad	.10
11-14	Reviewed Motion to Extend Time for Discovery and EMX with Lucy	.15
11-17	Received Judge's Order for close of discovery and email to Jon and Chad	.10
	2.35 hours @ \$325 per hour \$763.75	
	Expenses -0-	
	Previous Retainer Balance \$1,785	
	Deducted \$763.75	
	\$1,021.25	

- Personal Consultation (PC)
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- Opposing Counsel (OPC)

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E-MAIL [marcnblawyer@sbcglobal.net](mailto:marcnblawyer@sbcglobal.net)

October 31, 2010

Via Email Only

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92011

**STATEMENT FOR LEGAL SERVICES**

Date	Service Rendered	Time Spent
	<b>October 2010</b>	
10-4	Letter and EMX to Jon Froemel	.20
10-7	TC with Jon Froemel	.10
10-10	Discovery to prepare supplemental documents	1.00
	1.30 hours @ \$ 325 per hour \$422.50 Expenses -0- Previous Balance \$792.75 Additional Balance \$422.50 Deducted from Retainer \$1,215 Retainer Balance \$1,785	

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- Opposing Counsel (OPC)



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September 30, 2010

Via Email Only

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92011

**UPDATED STATEMENT FOR LEGAL SERVICES**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>September 2010</b>	
9-6	Reviewed WCI's Interrogatories Responses	.45
9-7	Reviewed WCI's Interrogatories Responses	.25
9-8	Reviewed WCI's Request to Admit Responses	.20
9-16	Reviewed WCI's Request to Admit Responses	.25
9-17	Reviewed WCI's Request to Admit Responses	.35
9-21	EMX with Jon	.10
	1.60 hours @ \$ 325 per hour \$520 Expenses -0- Previous Balance \$272.75 Current Balance \$792.75 Please replenish retainer in amount of \$3,000	

**PREVIOUS STATEMENT**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>August 2010</b>	
8-4	Document Request	1.40
8-10	Completed Document Request and emailed to client	.40
8-18	EMX with OPC and EMXs with client	.10
8-25	PC with Beth; reviewed documents; EMX with Jon; TCs with Nick	1.45
8-31	TC with OPC	.10
	3.45 hours @ \$ 325 per hour \$1,121.25	

	Expenses -0- Retainer Balance as of July 31, 2010 \$848.50 Deducted \$848.50 Due and payable on receipt \$272.75 Please replenish retainer in amount of \$3,000	
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- Personal Consultation (PC)
- Telephone Consultation (TC)
- Conference Call (CC)
- Office Conference (OC)
- Email Exchange (EMX)
- Meeting (Mtg.)
- Opposing Counsel (OPC)

**LAW OFFICE OF MARC N. BLUMENTHAL**

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August 31, 2010

Via Email Only

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92011

**STATEMENT FOR LEGAL SERVICES**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>August 2010</b>	
8-4	Document Request	1.40
8-10	Completed Document Request and emailed to client	.40
8-18	EMX with OPC and EMXs with client	.10
8-25	PC with Beth; reviewed documents; EMX with Jon; TCs with Nick	1.45
8-31	TC with OPC	.10
	3.45 hours @ \$ 325 per hour \$1,121.25 Expenses -0- Retainer Balance as of July 31, 2010 \$848.50 Deducted \$848.50 Due and payable on receipt \$272.75 Please replenish retainer in amount of \$3,000	

- Personal Consultation (PC)
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July 31, 2010

Via Email Only

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92011

**STATEMENT FOR LEGAL SERVICES**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>July 15-31, 2010</b>	
7-16	Rule 26(a)(1) disclosure and EMX with clients	.90
7-20	EMX with Chad	.10
	PC with Chad	.10
	Rule 26(a)(1) complete and emailed to Jon F	.20
7-26	TC with Nick Barnhorst (Nick)	.35
	Responded to Interrogatories	.90
	Email to Jon and Chad	.10
	Document Request responses	.60
7-27	Request to Admit	.30
	EMXs with Nick and clients and Document Request Responses	2.0
	Questions posed to Chad in email	.15
7-28	Requests to Admit, EMXs with Chad, TCs with Nick and revised discovery, and drafted discovery	4.0
	9.70 hours @ \$ 325 per hour \$3,152.50	
	Expenses -0-	
	Previous Balance \$1,888.75 (PAID IN FULL)	
	Retainer \$4,000 (THANK YOU)	
	Deducted \$3,152.50	
	Retainer Balance as of July 31, 2010 \$847.50	

- Personal Consultation (PC)
- Telephone Consultation (TC)
- Conference Call (CC)
- Office Conference (OC)
- Email Exchange (EMX)
- Meeting (Mtg.)

**LAW OFFICE OF MARC N. BLUMENTHAL**

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July 15, 2010

Via Email Only

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92011

**STATEMENT FOR LEGAL SERVICES**

Date	Service Rendered	Time Spent
	<b>June 14, 2010-July 14, 2010</b>	
6-29	Received Response and discovery and email to client	.20
	Reviewed WCI's Response to MTD	.45
6-30	Reviewed Response	.45
7-8	Brief research	1.0
7-11	Brief research	7.5
(SUNDAY)	Reviewed WCI's Response	.35
7-12	Reviewed WCI Response	.25
	Brief Research and drafting	4.0
	EMX with clients	.15
7-13	Brief and EMX with Chad	2.30
	Brief research, EMXs and Affidavit for Jon	
7-14	Completed brief	.35
	EMXs with clients	.35
	Completed all documentation and filed brief on line	.25
	17.60 hours @ \$ 325 per hour \$5,720	
	Expenses -0-	
	Previous balance \$1,168.75	
	Total \$6,888.75	
	Retainer Received \$5,000 (Thank You)	
	Deducted \$5,000	
	Due and Owing \$ 1,888.75	

- Personal Consultation (PC)
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June 24, 2010

Via Email Only

Mr. Jonathan Maddux  
President  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92001

**STATEMENT FOR LEGAL SERVICES**

Date	Service Rendered	Time Spent
	<b>June 2010</b>	
6-3	EMXs and drafting Motion to Transfer (MTT)	.25
	Research	1.0
	Research, drafting MTT	2.0
6-4	Affidavit for Jon	1.50
	Research and drafting Motion to Dismiss (MTD)	4.50
6-6	MTD, research and drafting	4.00
6-7	Reviewed Complaint and research for MTD	.40
	Completed research and drafting, Notice of Motion, Notice of Filing, Transmittal letter to Judge, and filed all documents	3.25
6-8	Email to Jon with brief attached	.10
6-14	Status in Court, given discovery schedule	.65
	EMX with Jon	.10
	17.75 hours @ \$ 325 per hour \$5,768.75	
	Expenses -0-	
	Retainer \$7,500	
	Deducted \$2,900	
	Balance as of May 31, 2010 \$4,600	
	New Balance \$5,768.75	

	Due and Payable \$1,168.75	
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**LAW OFFICE OF MARC N. BLUMENTHAL**

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May 31, 2010

Mr. Jonathan Maddux  
CEO  
You Walk Away, LLC  
701 Palomar Airport Road  
Suite 300  
Carlsbad, CA 92001

Via Email Only

**STATEMENT FOR LEGAL SERVICES**

<b>Date</b>	<b>Service Rendered</b>	<b>Time Spent</b>
	<b>May 2010</b>	
5-12	PC with Chad and Jon and began to review documents	.50
	TC with Jon F (OPC)	.10
5-13	Reviewed complaint and TM research	.50
	TC with Jon, email to Jon, PC with Chad and Appearance Form and Certificate of Lanham Act Materials filed	.30
5-14	Reviewed documents and motion for Default Judgment (MDJ)	.75
	EMX with OPC	.15
5-18	Reviewed documents	.50
5-26	Began to research and prepare Motion to Transfer (MTT)	.75
5-27	Research for MTT	.25
5-30	Research and drafting MTT	1.75
5-31	Research and drafting MTT	2.45
	8.0 hours @ \$325 per hour \$2,600 Retainer Received \$7,500 (Thank You) Balance \$4,900 Expenses -0- Balance in retainer \$4,600	

• Personal Consultation (PC)

• Telephone Consultation (TC)

- Conference Call (CC)
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- Meeting (Mtg.)
- Opposing Counsel (OPC)